# BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII

----- In the Matter of -----)

SNIFFEN'S EXPRESS

DOCKET NO. 03-0296

Notice of Failure to Comply With Hawaii Revised Statutes and Commission's Regulations Order to Show Cause Why Respondent's Operating Authority Should Not Be Suspended or Revoked.

### DECISION AND ORDER NO. 21140

Filed July 20, 2004
At \_\_\_\_8 o'clock A \_\_\_.M.

Chief Clerk of the commission

ATTEST: A True Copy KAREN HIGASHI Chief Clerk, Public Utilities Commission, State of Hawaii.

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#### DECISION AND ORDER

The commission ordered SNIFFEN'S EXPRESS ("Respondent") to appear at 465 South King Street, Room B3, Honolulu, Hawaii 96813, at 9:00 a.m., on November 26, 2003 to show cause why Respondent's certificate of public convenience and necessity ("CPCN") number ("No.") 4006-C should not be suspended or revoked for failure to file an annual financial report, pursuant to Hawaii Revised Statutes ("HRS") § 271-25 and Hawaii Administrative Rules ("HAR") § 6-62-42(a), and pay an annual motor carrier gross revenue fee, pursuant to HRS § 271-36 and HAR § 6-62-24(a), for 2002. The commission notified

¹The commission notified Respondent of the November 26, 2003 hearing by serving Order No. 20497 upon Respondent by certified mail, return receipt requested, at Respondent's last known address, or to Respondent's attorney. Pursuant to HAR § 6-61-21, service is deemed complete upon properly stamping, addressing, and mailing the order to Respondent's last known address, or to Respondent's attorney. Additionally, pursuant to HRS § 91-9.5, the commission provided Respondent with notice of

Respondent that its CPCN would be revoked if it failed to appear at the scheduled hearing.

On November 26, 2003, Respondent failed to appear before the commission's hearings officer. As a result, the hearings officer recommended that the commission render the following findings and conclusions: (1) Respondent be found in default for failure to appear at the hearing and (2) Respondent's CPCN be revoked.

above, the commission finds that Based on the Respondent's failure to appear at the November 26, 2004 hearing constitutes a default in accordance with HAR § Accordingly, because the commission can assume the facts alleged in Order No. 20497 are true in the event of a default, and such in violation of applicable laws, facts rules, are regulations noted above, the commission concludes Respondent's CPCN should be revoked.

THE COMMISSION ORDERS that CPCN No. 4006-C is revoked.

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the hearing via statewide publication in newspapers of general circulation on November 3 and November 10, 2003.

DONE at Honolulu, Hawaii this 20th day of July, 2004.

PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII

Carlito P. Caliboso, Chairman

Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

Catherine P. Awakuni

Commission Counsel

03-0296.eh

### CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing <u>Decision and Order No. 21140</u> upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS DIVISION OF CONSUMER ADVOCACY P. O. Box 541 Honolulu, HI 96809

Karen Higagh

DATED: July 20, 2004